

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
CENTRAL DIVISION**

DWAYNE A. SIMPSON,)	
Register No. 1026134,)	
)	
Plaintiff,)	
)	
v.)	No. 04-4094-CV-C-SOW
)	
MISSOURI DEPARTMENT)	
OF CORRECTIONS, et al.,)	
)	
Defendants.)	

ORDER

On April 25, 2005, the United States Magistrate Judge recommended that plaintiff's motions for summary judgment against defendant Wright be denied, and that defendant Wright's motion for summary judgment be granted and plaintiff's claims against defendant Wright be dismissed. The parties were advised they could file written exceptions to the recommendation, pursuant to 28 U.S.C. § 636(b)(1)(C).

The court has conducted a de novo review of the record, including the exceptions filed by plaintiff on May 10, 2005. The issues raised in plaintiff's exceptions were adequately addressed in the report and recommendation. The court is persuaded that the recommendation of the Magistrate Judge is correct and should be adopted.

There is no dispute of material fact as to plaintiff's claims against defendant Wright, and based upon such facts (which include plaintiff's medical records and plaintiff's own statements), no reasonable jury could find that defendant Wright was deliberately indifferent to plaintiff's medical needs or that she denied him medical care for a serious medical condition. Plaintiff's claims against defendant Wright are, at most, allegations of negligence, which are not actionable under 42 U.S.C. § 1983. Plaintiff's motions for summary judgment against defendant Wright are denied. Defendant Wright's motion for summary judgment is granted and plaintiff's claims against defendant Wright are dismissed.

On April 20, 2005, the Magistrate Judge recommended that plaintiff's motion for default judgment be denied. The parties were advised they could file written exceptions to the recommendation, pursuant to 28 U.S.C. § 636(b)(1)(C). No exceptions have been filed.

A review of the record convinces the court that the recommendation of the Magistrate Judge is correct and should be adopted. Plaintiff's motion for default judgment is denied.

IT IS, THEREFORE, ORDERED that plaintiff's motion for default judgment is denied [45, 53]. It is further

ORDERED that plaintiff's motions for summary judgment against defendant Wright are denied [34, 43, 54]. It is further

ORDERED that defendant Wright's motion for summary judgment is granted and plaintiff's claims against defendant Wright are dismissed [31, 54].

/s/Scott O. Wright

SCOTT O. WRIGHT

Senior United States District Judge

Dated: 6-27-05